

Rhode Island Mercury Advisory Working Group
Minutes from Friday, July 26, 2002
10:00 a.m. – Noon
RI DEM, 235 Promenade Street, Room 300

Attendees: Listed at end of meeting minutes.

Agenda: Discussion of Draft Regulations (distributed via email 7/23 to entire group):

1. Discussion of draft regulatory definitions - e.g. mercury-added novelties.
2. Discussion of draft notification regulations.
3. Discussion of how to codify the exemption process.
4. Discussion of the draft elemental mercury certification form/directions.

Meeting Minutes from June 7, 2002:

Minutes from 6/07/02 meeting adopted without changes.

Introductions/Welcome:

- Called to order by Jan H. Reitsma, Director DEM at 10:10 a.m.
- Introductions.

Opening Remarks – Director Reitsma:

- Director Reitsma provided remarks on how the rule making process traditionally operates at RI DEM.
- Ron Gagnon (RIDEM) provided comments on the handout (draft regulations) which was emailed to working group members prior to today's meeting.
- When Director Reitsma opened the floor up for questions about today's meeting, it was asked if notification requirements could be discussed.

Agenda Item #1: Discussion of Definitions (focusing on 'mercury-added novelty, #15)

Beverly Migliore (of DEM's Office of Technical & Customer Assistance) provided background on the need to accurately define mercury-added novelties because of the upcoming January 1, 2003 restrictions on the sale of novelty products.

Discussion/Comments by Working Group Members on Defining Novelty Products:

- Should the regulations identify specific products or groups of products to be affected by the ban, or should the regulations establish criteria which would be used to determine

whether or not a product is a novelty?

- Need to take into consideration how readily/easily the mercury from an identified novelty product will get into the environment.
- Discussion was heard about exempting certain types of novelty products - e.g. products containing lamps and LCD screens. Comments were provided *against* exempting toys and games from the definition of a novelty.
- Discussion was heard about the need for regulatory certainty - manufacturers need assurances that once they produce a product, they'll be able to sell it in Rhode Island.
- There should be a progressive view about phase-out, and a commitment to focus on the intent of the legislation as it was enacted.
- Comments were heard about the need to address those groups of products (e.g. specialty film products) that contain only trace amounts of mercury. Should they be treated the same as those products which contain significantly more mercury?
- Some working group members commented that they didn't support the concept of defining novelties in terms of cost or value. Others commented that the amount of mercury is not directly relevant to whether or not the product is defined as a novelty, and suggested the regulations steer away from using mercury levels as a criteria.
- The issue was raised about consumers going out-of-state to purchase products, and the possibility of amending the legislation.
- Working group member Ric Rossati located the definition of 'novelty' (according to Webster's Dictionary). **Novelty**: "Something new or unusual; the quality or state of being novel; a small manufactured article intended mainly for personal or household adornment (usually used in the plural). " *From Merriam-Webster Collegiate Dictionary (on-line).*
- A suggestion was made to "cross reference" the section on fluorescent lamps with novelty products. This would result is an exemption for novelties containing fluorescent lamps (with mercury).
- Other suggestions for defining 'novelties': 1) product is more of a want than a need; 2) examine product use pattern; 3) does it contain a non-replaceable mercury-added button cell battery?; 4) is the product used for promotional purposes?; and, 5) is it a small, mass produced product?

Discussion/Comments by Working Group Members on Remaining Regulatory Definitions:

- *Definition #16* ('mercury-added product') doesn't capture products used for ritualistic practices (e.g. body paint, ceremonial purposes). Additional comments and information were provided about the need for public education and outreach on the possible health effects of using mercury for ceremonial/ritualistic purposes. There appeared to be support to examine this issue further, either through the regulatory process or additional outreach efforts.
- *Definition #1* ('senior management official') doesn't address the right group of people who will be involved in this process - needs to be more focused.
- *Definition #11* ('healthcare facility'). A question was raised about whether or not this should specifically include dental offices.

- *Definition #9* ('fluorescent lamp'). Ric Erdheim, of NEMA, indicated he could provide regulatory definition.

Agenda Item #2: Discussion of Notification Process/Regulations

- Definition #22 ('product category'). Concerns were heard from a number of working group members about this particular definition. One concern is in tying the amount of mercury in the product to the ranges used on the notification forms. Are the product categories (currently used by IMERC) arbitrary? Will this raise Confidential Business Information (CBI) questions?
- It was suggested that the regulations be further amended to reflect the intent of the legislation - specifically, it was ~~recommended~~ **agreed** that the phrase "mercury-added" appear before the word "product" throughout the entire set of regulations.
- A question was raised about the state's requirement that manufacturers and trade groups report to IMERC and not RI DEM.
- Concerns were raised about what exactly a "significant change" (see page 6, section 2(b)) should encompass. It agreed that on page 6, section 2(b) item 5, should be amended to read "It has been 3 years since the previous notification was *approved*."

Agenda Item #3: Discussion of Exemption Process

- Questions were raised about what "final sale" would mean in a regulatory sense (referencing RIGL 23-24.9-7 *phase-out and exemptions*).
- A question was raised about the manufacturer's responsibility for the phasing out of products.

Agenda Item #4: Elemental Mercury Certification Form

In the interest of time, Director Reitsma asked that specific comments on the forms and attached instructions be sent directly to Ron Gagnon or Beverly Migliore.

One comment was offered about the forms: should manufacturers be required to complete these forms? The statute doesn't seem to require this. As such, a change may need to be made on the draft forms.

Date of Next Meeting:

The next meeting was set for Friday, August 23rd (same location - RI DEM, 235 Promenade Street). Attendees were asked to forward comments and suggestions to Ron Gagnon at rgagnon@dem.state.ri.us or 401-222-4700, Ext. 7500.

Meeting minutes and other materials will be forward in coming weeks. All attendees were reminded to sign in on the sheet by the back door.

Adjournment:

Co-chair Jan Reitsma adjourned the meeting at approximately 12:00 pm.

Recorded by: Elizabeth S. Stone
RI DEM

Meeting Attendees as indicated on sign-in sheet (7/26/02):

1. Terry Tierney
2. Kate Canada
3. Paul D'Adamo
4. Alicia Karpick
5. Heather Bowman
6. Ric Erdheim
7. Townsend Goddard
8. Derek Guest
9. John Hogan
10. Frank Marella
11. Joan Milas
12. Rick Rosati
13. Rene Turcotte
14. Ron Gagnon
15. Bev Migliore
16. Jan Reitsma
17. Terry Gray
18. Elizabeth Stone
19. Jeri Weiss
20. Dennis J. Roberts
21. Tom Brandt
22. Eugenia Marks
23. Tom Uva